

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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)	
MARC STEPHEN RENNER,)	
)	
Respondent,)	No. 81959-9
)	
v.)	En Banc
)	
CITY OF MARYSVILLE,)	
)	
Petitioner.)	Filed April 1, 2010
_____)	

C. JOHNSON, J.—This case involves the question of what constitutes substantial compliance under former RCW 4.96.020(3) (2001), the local government tort claim filing statute. Marc Stephen Renner timely filed his claim for wrongful discharge with the city of Marysville but described the damages he would request instead of including a numerical amount, and he included one of his addresses for the six-month period preceding his discharge. The Court of Appeals concluded that Renner substantially complied with the statute, and we granted review on the question of Renner’s substantial compliance with the statute. We affirm.

FACTS AND PROCEDURAL HISTORY

On December 2, 2003, the city of Marysville terminated Marc Renner from his position as a computer network administrator, citing Renner's misconduct and insubordination. Renner asserts that he was fired for inquiring about joining a union. On May 25, 2005, Renner filed a wrongful discharge claim with the city, using a form provided by the city. The claim filing statute in effect at the time contained a series of requirements for claims filed with local governments. Former RCW 4.96.020(3) (2001) dictated, in relevant part, that a claim "shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose."

Renner's completed form did not precisely comply with these statutory requirements. First, where the form left a blank for the amount of damages, Renner typed "undetermined pending further investigation and discovery." Clerk's Papers (CP) at 74. Then, where directed to attach documentation relating to expenses and other damages, Renner typed, "Wages and benefits as well known to the city since termination plus front pay, emotional damages, costs, fees and such other damage as determined." CP at 75. Additionally, the single address he provided covered only two of the six months immediately preceding accrual of his claim. CP at 26.

Renner filed his lawsuit on October 21, 2005. At the same time, he served the city with his first set of discovery requests. The city objected to those requests on December 6, 2005, and filed its answer on December 12, 2005, asserting, among others, the affirmative defense of Renner's failure to comply with chapter 4.96 RCW. CP at 83. The city then served Renner with a second set of discovery responses, captioned "Objections," on February 3, 2006, in which it specified that Renner "failed to comply with RCW 4.96 as he did not state an amount of damages or his residences for six months prior to accrual of his claim, and the claim form is not properly verified." CP at 55. Renner's attorney acknowledged that he "overlooked" these latter responses and that he thus failed to correct the deficiencies in Renner's claim.

Almost two years after Renner filed his lawsuit, on July 19, 2007, the city moved for summary judgment on the ground that, among other things, Renner failed to comply with former RCW 4.96.020(3). CP 85-90. The superior court granted summary judgment against Renner and dismissed the action with prejudice on August 21, 2007.

Renner appealed, and the Court of Appeals reversed in a published opinion, holding that Renner substantially complied with the claim filing statute with regard

to both residential address and damages. *Renner v. City of Marysville*, 145 Wn. App. 443, 458, 187 P.3d 283 (2008). The city then sought review with this court, which was granted. *Renner v. City of Marysville*, 165 Wn.2d 1027, 203 P.3d 382 (2009).

ISSUE

Did Renner substantially comply with the claim filing statute, former RCW 4.96.020, when he described his damages rather than give an actual number and when he failed to include all addresses?

ANALYSIS

We review questions of statutory interpretation de novo.¹ *Troxell v. Rainier Pub. Sch. Dist. No. 307*, 154 Wn.2d 345, 350, 119 P.3d 1173 (2005).

A local government entity is liable for damages arising from its tortious conduct to the same extent as if it were a private person or corporation. RCW 4.96.010(1). However, prospective plaintiffs must file a tort claim with the local government at least 60 days prior to filing a lawsuit. The purpose of this claim is “to allow government entities time to investigate, evaluate, and settle claims” before they are sued. *Medina v. Pub. Util. Dist. No. 1*, 147 Wn.2d 303, 310, 53 P.3d 993

¹ The facts are undisputed in the case before us, so the sole question is whether Renner substantially complied with the claim filing statute.

(2002). The claim filing statute provides further that it is to be liberally construed such that substantial compliance is satisfactory. RCW 4.96.010(1). The version of the claim filing statute in effect at the time Renner filed his claim, former RCW 4.96.020(3) (2001), provides:

All claims for damages arising out of tortious conduct must locate and describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and *shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose.*

(Emphasis added.)

In regard to former versions of the claim filing statute, this court has interpreted “substantial compliance” to require that the claimant make a “bona fide attempt to comply with the law” and that the notice filed “must actually accomplish its purpose.” *Brigham v. City of Seattle*, 34 Wn.2d 786, 789, 210 P.2d 144 (1949). Even when the notice is defective in some respects, we have held it is sufficient if it advances the purpose of the statute. *Brigham*, 34 Wn.2d at 789.

The claim filing statute is intended to provide local governments with notice of potential tort claims, the identity of the claimant, and general information about the claim. The legislature illustrated the general nature of this purpose, stating that

“[t]he laws specifying the content for such claims shall be liberally construed so that substantial compliance therewith will be deemed satisfactory.” RCW 4.96.010(1).

Under this directive, exact specificity is not required; the claimant simply must provide enough information to put the government on notice of the claim and its contents.

Amount of Damages

The purpose underlying the claimant’s statement of his “amount of damages” is to provide the government notice of the type of relief sought. Renner argues that the information he provided constituted adequate notice. He described his damages as “[w]ages and benefits . . . since termination,” as well as “emotional damages, costs, fees and such other damage as determined.” CP at 75. He points out that this information gave the city notice of the nature of his damages, though not the precise numerical figure. The city argues that this data was insufficient because Renner was required to provide the amount he would accept to settle the claim. City of Marysville’s Pet. for Review at 7. The city argues that the purpose of the claim filing statute is to allow the local government to settle prior to litigation. Pet. for Review at 6-7. While this is one part of the statutory purpose, the statute also is intended to give the government *time* to investigate, negotiate, and attempt to settle

claims. As a prelude to litigation, the claim filing requirement of a damages statement is not intended to ask the impossible, and the requirement is not equivalent to a final request for relief. In some cases, the exact amount of damages may be uncertain at the time the notice is prepared.

Renner points out that he was unable to calculate his damages accurately at the time he submitted his claim and that the law “should not compel [him] to state a fictitious or untruthful amount.” Marc Renner’s Resp. to City of Marysville’s Pet. for Review at 6. We have recognized the difficulty of quantifying damages before a lawsuit is filed and have not required the claimant to provide a final quantification of damages at this early stage in the proceedings. Because the number a claimant provides is perhaps likely to change as the case progresses, an accurate and complete description of the damages—instead of a number—will often supply the information and notice required by the claim filing statute.

The city’s position, that a claimant must provide a reasonable estimate of damages prior to any discovery, is inconsistent with the statutory directive of liberal construction. Under some circumstances, the exact dollar amount sought will be known. In other cases, such precision is not possible. Because the purpose of providing a description of the damages claimed is to give the government general

notice and the opportunity to investigate, negotiate, and possibly settle claims, and based on the statute's liberal construction directive, a general description of damages sought fulfills the statute's purpose.

The Court of Appeals noted that Renner provided data sufficient for the city to "calculate an approximate base amount of the claim." *Renner*, 145 Wn. App. at 458. We agree. And though the city could not have known with certainty the total amount of damages Renner would request, there is no reason for this uncertainty to impede the city's settlement plans. If, after evaluating the strength of Renner's claim, the city decided to pursue settlement, the lack of a dollar figure would have been unlikely to dissuade it from initiating settlement talks. In fact, the information Renner did provide likely supplied more guidance to help the city evaluate settlement options than an estimated numerical figure that is not binding on the claimant and chosen by reason of procedural necessity. Renner's statement of the nature of damages claimed provided the city with enough information to comply with the statutory purposes and allow the city to investigate and consider settlement of Renner's claim.

This conclusion is not inconsistent with our holding in *Caron v. Grays Harbor County*, 18 Wn.2d 397, 139 P.2d 626 (1943). In that case, we held that the

claimant did not substantially comply with the claim filing requirements when she failed to include several pieces of requested information, including not only the amount of her damages, but also a description of her injury or a description of the defect causing the accident. We emphasized the claimant's failure to provide correct information regarding the equipment defects underlying her accident. The claim in *Caron* failed to fulfill the purpose of the statute; it did not provide the county with the information necessary to investigate the claim. The present case is distinguishable by the information Renner provided, and the city knew the nature of both its alleged wrongdoing and the damages Renner claims.

The proper inquiry is whether the information the claimant provided fulfills the purposes of the requirement and the claim filing statute, liberally construed. The damages information Renner provided to the city fulfilled the statutory purposes. We hold that Renner substantially complied with the "amount of damages" requirement of former RCW 4.96.020(3).

Statement of Residence

The claim filing statute's requirement for a statement of residence is intended to give the municipality "an opportunity to investigate the claimant as well as his claimed injuries." *Nelson v. Dunkin*, 69 Wn.2d 726, 728, 419 P.2d 984 (1966). In

other words, the notice must identify the person making the claim and provide the information necessary to conduct an investigation of the claimant. If the claimant provides information that fulfills this purpose, he substantially complies with the requirement. The Court of Appeals concluded that the address provided by Renner, where he lived for two months prior to his discharge, fulfilled this purpose and thus could be found to be in substantial compliance with former RCW 4.96.020. *Renner*, 145 Wn. App. at 456-57. We agree.

Renner adopts the Court of Appeals' conclusion that the statute permits a claimant to provide only one address in some circumstances.² We approve of this reasoning. The residence requirement functions to provide the government with the identity and location of the claimant. When a claimant resides at the same address for the six months prior to the time his claim arises, only one address is required.

² The requirement that the claimant provide both a current and prior address is one that has undergone a series of statutory changes over the years. Prior to 1993, claims against cities and towns were required to include "a statement of the actual residence of the claimant . . . ; and also a statement of the actual residence of the claimant for six months immediately prior to the time the claim for damages accrued." Former RCW 35.31.010 (1993), *repealed by* Laws of 1993, ch. 449, § 3. In 1993, the legislature replaced the separate claim filing statutes for local governments with a unified statute, RCW 4.96.020, which required "a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose." Former RCW 4.96.020(3) (1993) (Laws of 1993, ch. 449, § 3). Liberally construed, this change could be read to dispose of the explicit requirement of two separate statements of residence. The legislature again amended RCW 4.96.020(3) in 2009, changing the requirements for statements of residence. Laws of 2009, ch. 433, § 1. These changes are not analyzed herein.

And even a claimant who has had multiple addresses during that period—if he makes a bona fide attempt to provide the required information—will substantially comply when the information provided fulfills the purpose of the statute. Renner supplied the information requested on the claim form, thus demonstrating his bona fide attempt to comply.

The information Renner provided also fulfilled the purpose of the claim filing statute. In support of its holding, the Court of Appeals noted that the city, through exercise of “reasonable diligence,” could have easily discovered Renner’s previous address. *Renner*, 145 Wn. App. at 456. The court adopted the “reasonable diligence” standard from *Nelson*, 69 Wn.2d at 731-32. In *Nelson*, this court, after a survey of relevant cases, concluded that a claimant may substantially comply with the address requirement when the municipality can, by reasonable diligence, determine where the claimant lived during the six months preceding the claim. In this case, the same reasoning applies. The city, based on the claim and with access to additional data as needed, had the information necessary to fully investigate Renner and his claim.

The city in its arguments ignores the intrinsically ad hoc nature of a substantial compliance inquiry, under which we ask whether the purpose of the

statute is advanced by the claimant's actions. The claim filing requirement is intended to provide the city with the identity of the claimant and the relief being sought. It cannot and should not be the basis for dismissal of a cause of action under these circumstances.

CONCLUSION

We conclude that Renner substantially complied with the statutory requirements, liberally construed. We affirm the decision of the Court of Appeals and remand this case to the trial court for further proceedings.

AUTHOR:

Justice Charles W. Johnson

WE CONCUR:

Justice Susan Owens

Justice Gerry L. Alexander

Justice James M. Johnson

Justice Richard B. Sanders

Justice Debra L. Stephens

Justice Tom Chambers

Renner v. City of Marysville
Cause No. 81959-9